

**At a Regular Meeting of the Town Council of the Town of Middletown,
RI held at the Middletown Town Hall on Monday, March 4, 2013 at 5:30
P.M.**

Council President Christopher T. Semonelli, Presiding

Vice President Robert J. Sylvia

Councillor Richard P. Adams

Councillor Bruce J. Long

Councillor Paul M. Rodrigues

Councillor M. Theresa Santos

Councillor Barbara A. VonVillas, Members Present

PLEDGE OF ALLEGIANCE TO THE FLAG

RECONSIDERATION

The Middletown Town Council follows the codification of present-day general parliamentary law as articulated in Robert's Rules of Order Newly Revised 10th edition (2000), together with whatever rules of order the Council has adopted for its own governance. The motion to reconsider is one of the motions that can bring a question again before an assembly, and is designed to bring back for further consideration a motion which has already been voted on:

If, in the same session that a motion has been voted on, but no later than the same day or the next day on which a business meeting is held, new information or a changed situation makes it appear that a different result might reflect the true will of the assembly, a member who voted with the prevailing side can, by moving to Reconsider [RONR (10th ed.), p. 304-321] the vote, propose that the question shall come before the assembly again as if it had not previously been considered. (From Robert's Rules of Order Newly Revised In Brief, Robert, Evans et al., De Capo Press, 2004)

There were no reconsiderations.

EXECUTIVE SESSION-5:30 P.M.

- 1. Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (2) Potential Litigation.**

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 5:31 pm.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 6:15 pm.

On motion of Vice President Sylvia, duly seconded, it was voted to 1) accept Woodard & Curran's proposal to settle amounts owed on unpaid invoices, 2) accept Woodard & Curran's proposal to settle the Town's claim for damages, and 3) authorize the Finance Director to

execute a contract amendment for additional engineering and construction inspection services, subject to final review of the Town Solicitor's Office; Councillor Rodrigues voted NO to said motion.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to seal the executive session minutes pursuant to Section 42-46-7. RIGL.

6:00 P.M. – IMPACT FEES PRESENTATION

2. Memorandum of Town Planner, thru Town Administrator, with enclosure, re: MIDD-012-022- Impact Fee Update Study – Final Report - Presentation by Carson Bise representing TischlerBise Fiscal, Economic & Planning Consultants – Impact Fees.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said memorandum and begin presentation.

Town Planner Ronald Wolanski reviewed the memorandum above.

Carson Bise, representing TischlerBise Fiscal, Economic & Planning Consultants, reviewed a powerpoint presentation concerning the Middletown Impact Fee Study. The presentation is on file in the Office of the Town Clerk.

Discussion centered around the current Impact fees, City of Newport Sewer, school enrollment and 2010 census.

On motion Vice President Sylvia, duly seconded, it was voted unanimously to forward the report to the Planning Board for their review and recommendation in accordance with Town Code § 150.02 and 150.04.

3. Memorandum of Finance Director, thru Town Administrator, re: Capital Improvement Impact Fund account balance.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said memorandum.

Town Administrator Shawn Brown noted that the memorandum above was provided by the Finance Director showing the current impact fee balances.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to recess this meeting at 6:55 pm.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to reconvene this meeting at 7:03 pm.

PUBLIC FORUM SESSION

4. Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.

No one spoke during this session.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to act on items #30, #31 and #32, at this time.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to act as a Board of License commission.

ACTING AS A BOARD OF LICENSE COMMISSION

5. (Public Hearing Advertised; abutters notified)

Application of NNGC, Corporation dba Newport National Golf Club, 324 Mitchell's Lane, for a Retailers Class BV Alcoholic Beverage License for the 2012-2013 licensing year. (NEW)

Public Hearing was declared open.

Robert M. Silva, Esquire, 1100 Aquidneck Avenue, representing the applicant, noted that the application has been advertised and abutters notified. The applicant has been operating for six years with caterers, servicing under the veranda and tent. There will be an application filed in the Town of Portsmouth, due to two-thirds of the course being in Portsmouth. There will be a mobile cart serving beverages on the Middletown side of the Golf Course.

Councillor Santos inquired if the Mobile Cart driver will be Tips

certified?

Attorney Silva, responding to Councillor Santos, explained the cart driver will be Tips certified.

Councillor Long inquired where the tent is located and the hours.

Attorney Silva, responding to Councillor Long, explained the tent is shown in the diagram and is used for special events; hours for the tent depend on the time of the year.

Robin Hyson, General Manager, Newport National Golf Club, noted the tent floor is stationary; sides are put up in the summer. The tent is separate from the deck.

There being no other persons present desiring to be heard, public

hearing was declared closed.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to grant said license.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to reconvene as a Town Council.

CONSENT

6. Approval of Minutes, re: Regular Meeting, February 19, 2013.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to approve said minutes.

7. Communication of William F. Horan, re: The Middletown association with East Bay Energy Consortium (EBEC).

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said communication.

8. Memorandum of Finance Director thru Town Administrator, with enclosure, re: Collector's Abatements – Military Uncollectible Accounts.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said memorandum.

9. Resolution of the Council, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to pass said resolution.

10. Memorandum of Finance Director thru Town Administrator, with enclosure, re: Collector's Abatements.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said memorandum.

11. Resolution of the Council, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to pass said resolution.

12. Resolutions and Email Communications from Rhode Island Cities

and Towns, re: Request support Contract Continuation – in opposition to any and all legislative proposal that would mandate expired teacher contracts must continue at the existing terms and conditions, Binding Arbitration – to oppose and reject any and all mandatory binding arbitration legislation being considered for teacher and other school employee contracts, Layoff Notification Date and Gun Safety at the State and Federal level.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said resolutions.

13. Applications received from the following named persons, firms and corporations for RENEWAL of Holiday Sales Licenses for the 2013-2014 licensing year. (See Attached List)

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to grant said license renewals.

14. Applications received from the following named persons, firms and corporations for RENEWAL of Sunday Selling Licenses for the 2013-2014 licensing year. (See Attached List)

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to grant said license renewals.

15. Applications two (2) from the following named persons, firms or corporations for Special Event Permits. (See Attached List)

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to grant said Special Event Permits.

LICENSES & PERMITS

16. Application of NNGC, Corp., dba Newport National Golf Club, 324 Mitchell's Lane, for a Victualling House License for the 2012-2013

Licensing year. (NEW)

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to grant said license contingent on Building Official, Fire Marshal, Public Works and Board of Health approvals.

17. Application of Beach Liquors, LLC dba Beach Wine & Liquors, 43 Aquidneck Avenue, for a Sunday Selling License for the 2013-2104 Licensing year. (NEW)

On motion of Vice President Sylvia, duly seconded it was voted unanimously to grant said license.

18. Application for Special Event Permit from Middletown Pan Massachusetts Challenge Kids, A kid's bike ride fundraiser to support the Jimmy Fund, a cancer research foundation, Third Beach Road and Hanging Rocks Road, on Sunday, May 19, 2013 from 8:00 am until 1:00 pm, includes a request to waive permit fee.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to grant said Special Event Permit and waive said fee.

19. Application of the Aquidneck Island Police Parade Committee, Middletown, for RENEWAL of Peddler's License for (Novelties and T-Shirts) for Police Parade Day, May 5, 2013, includes a request to waive license fee and be sole vendor for the event. (6 Vendors; Middletown Only)

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to grant said license renewals, waive said fees and approve request for sole vendor.

20. Communication of Sergeant Richard Gamache Trustee, National Police Parade, re: Requesting "in-kind" services for police details, highway department personnel, and the use of Town owned properties.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said communication and grant in-kind services.

21. Application for Special Event Permit from Sergeant Corey Huck, on behalf of the National Aquidneck Island Police Parade for the Aquidneck Island Annual Police Parade beginning on West Main Road at Coddington Highway proceeding into Newport (Broadway) to be held on Sunday, May 5, 2013 at 9:00 am (Parade Committee respectfully requests permit fee to be waived)

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to grant said Special Event Permit and waive said fee.

22. Application for Special Event Permit from Walter Mey, David Leys, Jr. 5K Fundraiser, 5K Family Fun Run/Walk, Sachuest Beach, Sachuest Road, on Saturday, April 6, 2013 from 12:00 pm. until 2:00

pm, includes a request to waive permit fee.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to grant said Special Event Permit and waive said fee.

ORDINANCES

23. An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title VII Traffic Code, Chapter 75, Traffic Schedules.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to amend proposed ordinance by deleting subsections B, C, D, E and F from section 5.

On motion of Vice President Sylvia, duly seconded, it was voted

unanimously to adopt said ordinance on its second reading, as amended.

24. An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 34, Taxes, Section 34.50, Exemption of Certain Non-Profit Organizations.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.

TOWN COUNCIL COMMUNICATIONS

25. (Continued from Regular Meeting, February 19, 2013)

(Continued from Regular Meeting, February 4, 2013)

Email communication from Burrillville Town Clerk, with enclosures,

re: Resolution in support of deleting the option of straight party voting by means of a single mark in non-primary elections.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said email communication.

26. (Continued from Regular Meeting, February 19, 2013)

Email communication of Harry L. Staley, Chairman, RI Taxpayers, West Warwick, Rhode Island, with enclosure, re: Requesting Council to pass resolution to eliminate present voting machine Master Lever in all future elections.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said email communication.

27. (Continued from Regular Meeting, February 19, 2013)

Memorandum of Councillor Adams, re: Elimination of Straight Party Voting in Rhode Island.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said memorandum.

28. (Continued from Regular Meeting, February 19, 2013)

Resolution of the Council, re: In support of 2013- S0044 and 2013 – H5072 to delete the option of single party voting by means of single mark in non-primary elections.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said resolution.

Councillor Adams noted that he benefitted from the straight party ticket. Mr. Adams explained that straight party is confusing and may invalidate a vote and has a tendency to distort the intention of the

voter.

Vice President Sylvia thanked Councillor Adams for bringing the request to the Council. Mr. Sylvia explained that legislation has been submitted, which requires public hearings on the issue and suggests waiting to hear the pros and cons regarding eliminating straight party voting.

Council President Semonelli noted that the Master Lever should be removed to allow voters to vote for anyone they want. Mr. Semonelli noted his support for the resolution.

Councillor Long noted his agreement with Council President Semonelli and explained that voters may lose their vote by using the Master lever. Mr. Long noted his support for the resolution.

Councillor Rodrigues noted that he does not support this resolution explaining that the Secretary of State should educate voters and

voters should educate themselves concerning the Master lever.

Councillor Santos noted that she does not support this resolution.

Councillor VonVillas noted her support for this resolution.

On motion of Councillor Adams, duly seconded, it was voted to pass said resolution; Council President Semonelli, Councillor Adams, Councillor Long and Councillor VonVillas voted YES; Vice President Sylvia, and Councillor Rodrigues and Councillor Santos voted NO to said motion.

29. Resolution of the Council, re: Endorsing Middletown Library 2013 Legislative agenda.

On motion of Vice President Sylvia, duly seconded, it was voted

unanimously to pass said resolution.

APPOINTMENTS TO BOARDS & COMMITTEES

30. (Continued from Regular Meeting, January 22, 2013)

Appointment of one (1) member to the Middletown Board of Canvassers for a term expiring March 2019. (Bi-partisan Board – See State Law Attached)

On motion of Vice President Sylvia, duly seconded, it was voted to appoint Adeline Rose to the Middletown Board of Canvassers for a term expiring March 2019.

31. (Continued from Regular Meeting, February 19, 2013)

Appointment of four (4) members to the Planning Board; three (3) for terms expiring February 2016 and one (1) to complete a term expiring February 2014.

On motion of Vice President Sylvia, duly seconded, it was voted to reappoint Betty Jane Northup-Owen, reappoint Charlene A. Rose-Cirillo, appoint Matthew Sullivan to terms expiring February 2016 and appoint John L. Ciummo to complete a term expiring February 2014.

Councillor VonVillas explained two years ago a Town Councillor recommended interviewing all candidates for Boards and Committees, only the Planning and Zoning Boards were chosen to be interviewed. Ms. VonVillas noted that this is an effort to control the Planning Board; a charge of Planning Board is to make independent recommendations to the Council, and not act as the Town Council wants them to do. Councillor VonVillas expressed concern that now the term of the Chair is up and the other strong voice on the Planning Board has been silenced by these appointments. Ms. VonVillas noted this is in no way reflective of the other candidates, but considers this action vindictive, personal and political, and will not support these appointments.

Vice President Sylvia noted the stellar applicants and excellent Planning Board; and the he took exception to the allegations.

Councillor Adams noted the use of Mr. Weber as a mentor when he was on the Planning Board. Mr. Adams explained that Mr. Weber was an effective member of the board and disagrees with not appointing Mr. Weber.

Council President Semonelli explained that the person not chosen has vast experience and talent while running the Town Council, and hopes Mr. Weber stays involved. Mr. Semonelli noted he cannot support this motion.

Councillor Rodrigues noted it was his first time with the interview process; the candidates were good and thought the process was great.

The motion from above, which was duly seconded, a vote was taken:

Vice President Sylvia, Councillor Long, Councillor Rodrigues and Councillor Santos voted YES; Council President Semonelli, Councillor Adams and Councillor VonVillas voted NO to said motion.

32. Appointment of one (1) member to the Arts Committee for a term expiring April 2015.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to appoint Peter Sterling Turner to the Arts Committee for a term expiring April 2015.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to adjourn said meeting at 7:40 pm.

Wendy J.W. Marshall, CMC

Council Clerk

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